MEMORANDUM

To: National Council of State Agencies for the Blind

From: Fredric K. Schroeder, Ph.D.

Subject: Policy Consultantâ€™s Update

Date: October 18, 2018

I apologize that I am unable to be with you at the fall conference. Unfortunately, I will be out of the country that entire week.

The following is a summary of what is happening in Washington:

Confirmation Pending for Mark Schultz as RSA Commissioner: Early this year, President Trump announced the nomination of Mark Schultz as the Commissioner of the Rehabilitation Services Administration (RSA) within the U.S. Department of Education. The position of RSA Commissioner requires Senate confirmation. In early June 2018, the Health, Education, Labor and Pensions (HELP) Committee forwarded Mr. Schultzâ€™s nomination to the full Senate for action. At this time, Mr. Schultzâ€™s confirmation remains pending.

President Trump Appoints Laurie VanderPloeg OSEP Director: On October 11, President Trump appointed Laurie VanderPloeg as Director of the Office of Special Education Programs (OSEP). Ms. VanderPloeg currently serves as president of the Council for Exceptional Children. Additionally, she has experience as a district special education administrator in Michigan. OSEP is the office within the Department of Education charged with administering the Individuals with Disabilities Education Act.

Julie Hocker Appointed HHS Commissioner of the Administration on Disabilities within the Administration for Community Living: Julie Hocker has been appointed as the new Commissioner of the Administration on Disabilities at the Administration for Community Living. Ms. Hocker was previously a Senior Manager at the Charles Koch Foundation and is also a Senior Policy Fellow at the Center for Human Dignity at the American Conservative Union Foundation.

Marrakesh Treaty Implementation Act Signed into Law: In late September 2018, the House of Representatives passed the Marrakesh Treaty Implementation Act. The Act makes changes to U.S. copyright law to bring our copyright law into conformity with the Marrakesh book treaty for the blind. On October 10, 2018, President Trump signed the Marrakesh Treaty Implementation Act into law. The final step is now for the President to direct the Department of State to deposit the United States' instrument of ratification with the United Nations, World Intellectual Property Organization.

DHS Issues Proposed Rule Limiting Immigration: On October 10, the Department of Homeland Security (DHS) issued a proposed rule that will greatly expand what is known as the "public charge" test. The public charge test allows for denying entry to or permanent residency in the United States based upon the likelihood an individual will need government benefits. Currently, the only benefits considered are cash benefits such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), comparable state and local programs, and institutional long-term care (including care funded by Medicaid). Under the proposed rule, an individual could be considered a public charge for using or applying for a broader range of benefits including most Medicaid programs, housing assistance, or food assistance. Disability advocates are worried that the proposed rule will have a disproportionate impact on legal immigrants with disabilities.

Social Security Administration Announces Cost of Living Increases for 2019: The Social Security Administration (SSA) has announced a 2.8 percent cost-of-living adjustment (COLA) for Social Security and Supplemental Security Income (SSI) benefits in 2019. The Social Security Act provides for annual COLA increases based on inflation as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Because the CPI-W rose modestly over the last year, the 2019 COLA will increase benefits modestly. According to SSA, the average monthly Social Security benefit for a retired worker will increase by $39, from $1,422 in 2018 to $1,461 in 2019. The average monthly benefit for a Social Security disabled worker beneficiary will increase by $34, from $1,222 in 2018 to $1,234 in 2019. In addition, the SSI Federal Payment Standard will increase from $750 per month in 2018 to $771 per month in 2019. Important work incentive thresholds for Social Security and SSI beneficiaries with disabilities will also increase, including the Substantial Gainful Activity level and the Trial Work Period earnings level.

Congress Adjourns Until After the Elections: The House and Senate have adjourned until November 13, 2018.

2018 Midterm Elections: On November 6th, 2018, all 435 seats in the House of Representatives, a third of all current US Senators, 36 state governors, 3 US territory governors, and many city mayors will be up for election. Turnover is typically high during midterm elections, and it is anticipated that this year will be no exception. With Democrats expected to pick up a large number of seats in the House of Representatives together with retirements, it is estimated that we may have eighty (80) new House members in January 2019. That means a large number of new members and even more new staff who will need to be educated on disability issues. The various disability advocacy groups are already planning Congressional briefings beginning in February 2019.

Congressman Harper Retires from the House of Representatives: Congressman Greg Harper (R-MS) has been a strong advocate for people with disabilities. Most recently, Congressman Harper sponsored the Transitioning to Integrated Meaningful Employment (TIME) Act. The TIME Act would phase out subminimum wages over a three year period.

Legislation to Watch: The most contentious disability policy issue remains the definition of competitive integrated employment. On April 27, 2018, Representative Glenn Grothman (R-WI) introduced H.R. 5658, the Workplace Choice and Flexibility for Individuals with Disabilities Act. H.R. 5658 would define work performed under an AbilityOne contract as competitive integrated employment even though AbilityOne jobs are restricted to individuals whose disabilities are so significant that they are incapable of competitive employment. Nevertheless, proponents of H.R. 5658 argue that the legislation is needed to allow Vocational Rehabilitation agencies to refer people with disabilities to high quality jobs under the AbilityOne and State Use programs. While H.R. 5658 will expire at the end of the 115th Congress on December 31, 2018, the fight over competitive integrated employment as the preferred outcome for people with disabilities will continue.